

REMARKS

Applicants request reconsideration of the application in view of the preceding amendments and the following remarks. Claims 1-25 were pending. Claims 1, 5-10, 20 and 21 have been amended. The amendments to these claims were made for clarification and are not intended to narrow the scope of the claims. Original claims 3, 4, 11-18 and 22-25 have been canceled without prejudice. New claims 26-39 have been added.

In the Office action, the Examiner has rejected claims 3-10, 20 and 21 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner indicated it was unclear whether the terms "a hinge" in claims 3-4 and "each hinge" in claims 5-10 refer to the "at least one hinge" in claim 1. Applicants have amended claims 5-10 to recite "the at least one hinge" to clearly indicate that the dependent claims refer to the hinge recited in claim 1.

The Examiner has indicated that the term "a stop fitting" in claim 20 was unclear since it had already been recited in claim 19. Applicants believe that the limitation "attached to the guide wire distal to the proximal end of the expandable cage assembly" in claim 20 clearly differentiates the "stop fitting" in claim 20 from the "stop fittings" recited in claim 19 which are at the "proximal and distal ends of the expandable cage assembly." However, in order to more clearly differentiate the "stop fitting" recited in claim 20, Applicants have amended claim 20 to recite "a third stop fitting" and claim 21 to recite "the three stop fittings." Support for this amendment can be found in the specification at page 14, lines 6-15 and FIGS. 1A-1C.

This Amendment also corrects certain misspellings appearing in the Specification and claims. Claims 1, 5, 26 and 27 were amended to change the word "guidewire" to "guide wire." The Specification also has been amended to correct the spelling of the term guide wire and the word "radiopaque."

The Examiner has rejected original claims 1-25 under a statutory type (35 U. S. C. 101) double patenting rejection. In view of the amendments to the claims, Applicants respectfully request the Examiner to withdraw this double patenting rejection.

The Examiner has rejected claims 1, 3, 4 and 10-18 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,152,946 to Broome (the “Broome patent”). Further, the Examiner has rejected claims 22-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,171,327 to Daniel (the “Daniel patent”). Applicants herein address these rejections, including the Daniel patent, which is now not relevant in view to the cancellation of claims 22-25.

Applicants respectfully note that the Examiner asserts, in paragraphs 4 and 5 of the Office action, that the inventions of the Broome patent and the Daniel patent, respectively, have what the Examiner has characterized as “living hinges” along their length due to the “flexibility to guide the filter device through the vasculature of a patient.” Applicants respectfully assert that their invention as claimed is distinguishable from a “living hinge” and have amended independent claims 1 to recite a discrete hinge to clarify their invention. Support for the amendment can be found in the specification at page 15, lines 7-10 and FIGS. 1A-1C.

Applicants respectfully submit that neither the Broome patent nor the Daniel patent teach or suggest a discrete hinge. Applicants further respectfully submit that “living hinges,” the term used by the Examiner, are not the same structure as discrete hinges, which have a specific location on the guide wire, and that it is possible for a guide wire to have flexibility along its length to pass through the vasculature and discrete hinges located at specific locations thereon as utilized by Applicants in the claimed invention.

Because neither the Broome patent nor the Daniel patent disclose or teach a discrete hinge, Applicants respectfully assert that independent claim 1 is allowable over the cited references. Applicants further believe that new independent claims 26-37 are in condition for allowance. The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

Respectfully submitted,
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